

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 FRANK PATRICK BIRCH JR.,

4 Plaintiff

Case No. 2:19-cv-01338-GMN-DJA

ORDER

5 v.

6 STATE OF NEVADA et al.,

7 Defendants
8

9 **I. DISCUSSION**

10 Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections
11 (“NDOC”), has submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and has
12 filed an application to proceed *in forma pauperis* and a motion to extend copy work limit.
13 (ECF Nos. 1, 1-1, 3).

14 Plaintiff’s application to proceed *in forma pauperis* is incomplete. Pursuant to 28
15 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to
16 proceed *in forma pauperis* and attach both an inmate account statement for the past six
17 months and a properly executed financial certificate. Plaintiff has not submitted a properly
18 executed financial certificate on this Court’s approved form or an inmate account
19 statement. (See ECF No. 1). As such, the *in forma pauperis* application is denied without
20 prejudice. The Court will retain Plaintiff’s civil rights complaint (ECF No. 1-1), but will not
21 file it until the matter of the payment of the filing fee is resolved. Plaintiff will be granted
22 an opportunity to cure the deficiencies of his application to proceed *in forma pauperis*, or
23 in the alternative, pay the full filing fee for this action. If Plaintiff chooses to file a new
24 application to proceed *in forma pauperis* he must file a fully complete application to
25 proceed *in forma pauperis*.

26 Plaintiff has filed a motion to extend his copy work limit. (ECF No. 3). An inmate
27 has no constitutional right to free photocopying. *Johnson v. Moore*, 948 F.2d 517, 521
28 (9th Cir. 1991). Pursuant to NDOC administrative regulation 722.01(7)(D), inmates “can

1 only accrue a maximum of \$100 debt for copy work expenses for all cases, not per case.”
2 In this district, courts have found that they can order a prison to provide limited
3 photocopying when it is necessary for an inmate to provide copies to the court and other
4 parties. See *Allen v. Clark Cnty. Det. Ctr.*, 2:10-CV-00857-RLH, 2011 WL 886343, *2 (D.
5 Nev. Mar. 11, 2011). The Court denies the extension of copy work limit at this time
6 because this case is in the pre-service stage and has not undergone screening yet.

7 **II. CONCLUSION**

8 For the foregoing reasons, IT IS ORDERED that Plaintiff’s application to proceed
9 *in forma pauperis* (ECF No. 1) is DENIED without prejudice to file a new application.

10 IT IS FURTHER ORDERED that the Clerk of the Court SHALL SEND Plaintiff the
11 approved form application to proceed *in forma pauperis* by a prisoner, as well as the
12 document entitled information and instructions for filing an *in forma pauperis* application.

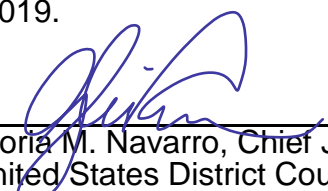
13 IT IS FURTHER ORDERED that within thirty (30) days from the date of this order,
14 Plaintiff shall either: (1) file a fully complete application to proceed *in forma pauperis*, on
15 the correct form with complete financial attachments in compliance with 28 U.S.C. §
16 1915(a); or (2) pay the full \$400 fee for filing a civil action (which includes the \$350 filing
17 fee and the \$50 administrative fee).

18 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
19 dismissal of this action may result.

20 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint
21 (ECF No. 1-1), but shall not file it at this time.

22 IT IS FURTHER ORDERED that the motion to extend copy work limit (ECF No. 3)
23 is denied without prejudice.

24
25 DATED THIS 3 day of August 2019.

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28 _____
Gloria M. Navarro, Chief Judge
United States District Court